



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

February 9, 2009

Ms. Neera Chatterjee
The University of Texas System
Office of the General Counsel
201 West Seventh Street
Austin, Texas 78701-2902

OR2009-01695

Dear Ms. Chatterjee:

You ask whether certain information is subject to required public disclosure under the Public Information Act (the "Act"), chapter 552 of the Government Code. Your request was assigned ID# 334441.

The University of Texas Pan-America (the "university") received a request for information pertaining to possible National Collegiate Athletic Association ("NCAA") rules violations by the university basketball program and any internal investigations over a particular time period. You state that the university is releasing some of the requested information. You also state that some of the requested information has been redacted pursuant to the Family Educational Rights and Privacy Act ("FERPA"), section 1232g of title 20 of the United States Code.¹ You claim that the submitted information is excepted from disclosure under

¹The United States Department of Education Family Policy Compliance Office (the "DOE") has informed this office that FERPA does not permit state and local educational authorities to disclose to this office, without parental consent, unredacted, personally identifiable information contained in education records for the purpose of our review in the open records ruling process under the Act. The DOE has determined that FERPA determinations must be made by the educational authority in possession of the education records. We have posted a copy of the letter from the DOE to this office on the Attorney General's website: <http://www.oag.state.tx.us/open/20060725usdoe.pdf>.

sections 552.101, 552.107, 552.111, 552.117, and 552.137 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information.²

Section 552.101 of the Government Code excepts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." Gov't Code § 552.101. You inform this office that NCAA bylaw 32.1.1 expressly prohibits the university from releasing details regarding an ongoing investigation of NCAA rules violations. You provided a copy of Bylaw 32.1.1, "Confidentiality," which provides:

32.1.1 Confidentiality. The Committee on Infractions, the Infractions Appeals Committee per Bylaw 19.2 and the enforcement staff shall treat all cases before them as confidential until they have been announced in accordance with the prescribed procedures. In addition, an institution and any individual subject to NCAA rules involved in a case shall treat that case under inquiry by the enforcement staff as confidential until the case has been announced in accordance with prescribed procedures.

See also Open Records Decision No. 462 at 7 (1987) (member institution is answerable to NCAA for violations of its rules by student athletes and personnel). You also point out that section 9 of article III of the General Appropriations Act requires the university to make "rules and adjustments [that] specifically prohibit violation of [NCAA] or other governing body rules with respect to recruitment of athletes."³ You advise us that the university's Intercollegiate Athletic Department Compliance Operating Manual specifically mandates adherence to NCAA rules and regulations. You further explain that section 131.002 of the Civil Practices and Remedies Code adopts the NCAA rules. *See* TEX. CIV. PRAC. & REM. CODE § 131.002. Having considered your arguments and the documentation you submitted, we find that you have shown that the university is prohibited by law from releasing the requested information. Therefore, the requested information must be withheld from disclosure under section 552.101 of the Government Code as information made confidential by law. *See* Open Records Decision No. 584 at 3 (1991) (provisions of law that prohibit release of information bring it within scope of section 552.101). As we are able to make this determination under section 552.101, we need not consider your remaining arguments.

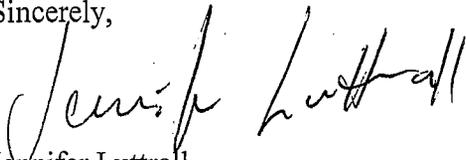
²We assume that the "representative sample" of records submitted to this office is truly representative of the requested records as a whole. *See* Open Records Decision Nos. 499 (1988), 497 (1988). This open records letter does not reach, and therefore does not authorize the withholding of, any other requested records to the extent that those records contain substantially different types of information than that submitted to this office.

³*See* General Appropriations Act, Act of June 15, 2007, 80th Leg., R.S., ch. 1428, art. III, § 9, 2007 Tex. Gen. Laws, 4911, 5355.

This letter ruling is limited to the particular information at issue in this request and limited to the facts as presented to us; therefore, this ruling must not be relied upon as a previous determination regarding any other information or any other circumstances.

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For more information concerning those rights and responsibilities, please visit our website at http://www.oag.state.tx.us/open/index_orl.php, or call the Office of the Attorney General's Open Government Hotline, toll free, at (877) 673-6839. Questions concerning the allowable charges for providing public information under the Act must be directed to the Cost Rules Administrator of the Office of the Attorney General at (512) 475-2497.

Sincerely,



Jennifer Luttrall
Assistant Attorney General
Open Records Division

JL/eeg

Ref: ID# 334441

Enc. Submitted documents

c: Requestor
(w/o enclosures)